

May 14, 2026

VIA REGULATIONS.GOV (Docket No. USTR-2026-0166)

Jeffrey Goettman
Deputy U.S. Trade Representative
Office of the U.S. Trade Representative
600 17th Street, NW
Washington, DC 20508

Re: Request for Comments on the Modernization of the African Growth and Opportunity Act (April 29, 2026)

Mr. Goettman:

The International Intellectual Property Alliance (IIPA) appreciates the opportunity to submit these comments in response to the April 29, 2026, Federal Register Notice (FRN) requesting public comments on the modernization of the African Growth and Opportunity Act (AGOA).

IIPA strongly recommends the AGOA criteria requiring beneficiaries to provide adequate and effective protection of intellectual property rights be retained in an AGOA modernization. In addition, any reforms related to other AGOA requirements should not in any way reduce or undermine the requirement for beneficiaries to provide adequate and effective copyright protection and enforcement. Furthermore, should the U.S. government use AGOA to pursue further reciprocal trade relationships with beneficiaries, the intellectual property criteria should be a critical component. Importantly, the lack of adequate and effective protection of intellectual property rights is an unfair trade practice that undermines the competitiveness of the copyright industries in foreign markets. As such, retaining the requirement for countries to provide adequate and effective protection of intellectual property rights as a condition for AGOA eligibility and ensuring this requirement remains a key component of U.S. trade policy in the region are fully consistent with the America First Trade Policy of January 30, 2025, which called on USTR to address such unfair trade practices.¹

A. Description of the IIPA and its Members

IIPA is a private sector coalition, formed in 1984, of trade associations representing U.S. copyright-based industries working to improve copyright protection and enforcement abroad and to open foreign markets closed by piracy and other market access barriers. Members of the IIPA include: Association of American Publishers (www.publishers.org), Entertainment Software

¹ See America First Trade Policy, Section 1(c), available at <https://www.whitehouse.gov/presidential-actions/2025/01/america-first-trade-policy/>.

Association (www.theesa.com), Motion Picture Association (www.motionpictures.org), and Recording Industry Association of America (www.riaa.com).

Collectively, IIPA's four member associations represent over 3,100 U.S. companies producing and distributing copyrightable content. The materials produced and/or distributed by IIPA-member companies include: video games for consoles, handheld devices, personal computers, and online; motion pictures and television programming distributed in all formats (including cinema, television, online, mobile, DVD, etc.); music recorded in all formats (from digital files to CDs and vinyl) for streaming and other online services, as well as broadcasting, public performance, and synchronization in audiovisual materials; and fiction and non-fiction books, educational, instructional and assessment materials, and professional and scholarly journals, and databases.

As demonstrated in IIPA's 2024 update of its comprehensive economic report, *Copyright Industries in the U.S. Economy: The 2024 Report*, prepared by Secretariat (2024 Report), the creative industries make outsized contributions to the U.S. economy, employment, and trade balance. According to the 2024 Report, in 2023, the "core" copyright industries in the United States: (i) generated over two trillion U.S. dollars of economic output; (ii) accounted for 7.66% of the entire economy; and (iii) employed almost 11.6 million workers, accounting for over 5.4% of the entire U.S. workforce and 6.1% of total private employment in the United States.² The jobs created by these industries are well-paying jobs, as copyright industry workers earn on average 50% higher wages than other U.S. workers. Further, according to the 2024 Report, the core copyright industries significantly outpaced the U.S. economy, growing at an aggregate annual rate of 9.23% between 2020 and 2023, while the U.S. economy grew by 3.41%. When factoring in other industries that contribute to the copyright economy (which together comprise what the 2024 Report calls the "total" copyright industries), the numbers are even more compelling.

American creators, producers, publishers, workers, and consumers all benefit when U.S. trading partners enact strong copyright laws, effectively enforce those laws, and eliminate barriers to their markets. The 2024 Report illustrates the positive contribution of selected copyright sectors to the overall U.S. trade balance. According to the report, foreign sales and exports of selected copyright products in overseas markets totaled \$272.6 billion in 2023, exceeding the foreign sales of other major U.S. industries. Leveling the playing field for the U.S. copyright industries in foreign markets would significantly increase these important U.S. exports, boosting U.S. job creation and economic growth and further improving the U.S. trade balance.

B. The Importance of AGOA's Intellectual Property Criteria for the Copyright Industries

Under AGOA Section 104, countries are eligible for AGOA benefits if they meet certain criteria, including establishing, or making continual progress toward establishing, "the elimination of barriers to United States trade and investment, including by . . . the protection of intellectual property rights."³ Furthermore, Section 111 of AGOA authorizes the designation of AGOA

² See Secretariat, *Copyright Industries in the U.S. Economy: The 2024 Report* (February, 2025) available at https://www.iipa.org/files/uploads/2025/02/IIPA-Copyright-Industries-in-the-U.S.-Economy-Report-2024_ONLINE_FINAL.pdf.

³ See AGOA Section 104(1)(C)(ii), 19 U.S.C. § 3703(1)(C)(ii).

eligibility if the President determines a country meets the criteria of both AGOA Section 104 and the Generalized System of Preferences (GSP) country eligibility criteria of Section 502 of the Trade Act of 1974.⁴ Section 502(c)(5) provides that the President “shall take into account” in “determining whether to designate” a country under GSP, “the extent to which such country is providing adequate and effective protection of intellectual property rights.”⁵

The adequate and effective protection and enforcement of copyright is the foundation on which U.S. creators and investors base their production and distribution activities in AGOA-eligible markets. Widespread piracy is the most significant trade barrier in Sub-Saharan Africa for the U.S. creative industries, depriving both U.S. and local creators of substantial revenues and jobs, undermining investments, and exacerbating other illicit activities such as identity theft and money laundering.⁶ For example, at the Kenya National Multi-Stakeholder Forum on Digital Piracy, local rights holder group Partners Against Piracy estimated copyright piracy deprives local creators of Sh92 billion – USD\$700 million – annually.⁷ Moreover, in addition to economic and cultural benefits, adequate and effective protection of intellectual property rights importantly supports good governance principles, including the rule of law, judicial independence, control of corruption, and political stability.⁸

It is therefore extremely important that the intellectual property rights criteria be retained in an AGOA modernization. In addition, any reforms related to other AGOA requirements should not in any way reduce or undermine the requirement for beneficiaries to provide adequate and effective copyright protection and enforcement. Moreover, should the U.S. government use AGOA to deepen reciprocal trade relationships with AGOA beneficiaries, as is suggested in the FRN, IIPA recommends that a key component of any such reciprocal trade relationship should be comprehensive obligations to protect and enforce intellectual property rights in line with longstanding bipartisan Congressional trade negotiating objectives.⁹ An important context that should be considered is that since the Special 301 process was instituted in 1989, USTR has not placed a Sub-Saharan African country on the Watch List or the Priority Watch List nor designated one as a Priority Foreign Country in the Special 301 report.¹⁰ Until the Special 301 process

⁴ See AGOA Section 111 (adding Section 506A to the Trade Act of 1974, 19 U.S.C. § 2466a, authorizing the President to designate AGOA eligible countries if he determines they meet the criteria of AGOA Section 104 and the Generalized System of Preferences (GSP) country eligibility criteria of Section 502 of the Trade Act of 1974)

⁵ See Section 502(c)(5) of the Trade Act of 1974, 19 U.S.C. § 2462(c)(5).

⁶ See, e.g., Lere Baale, Premium Times, *Cultural, Creative Industries in Africa: Opportunities, Challenges and Solutions*, June 11, 2025, available at <https://www.premiumtimesng.com/business/trade-insights/800073-cultural-creative-industries-in-africa-opportunities-challenges-solutions.html> (“Nollywood loses millions annually to illegal streaming and DVD piracy. African musicians often see their songs used without proper royalties or compensation.”); Hanno Labuschagne, MyBroadband, *Warning to South Africans using pirate streaming apps*, May 28, 2025, available at <https://mybroadband.co.za/news/broadcasting/596339-warning-to-south-africans-using-pirate-streaming-apps.html> (“In crackdowns overseas, law enforcement has found several illegal IPTV operations connected to other criminal organisations and crimes, including money laundering and cybercrime.” These illicit services, “[rob] an actors or filmmaker of deserved income,” and fund violent crimes.)

⁷ At the same forum, the Motion Picture Association estimated that the top 25 piracy sites in Kenya alone account for 155 million annual piracy visits, and research shows in the absence of piracy these visits would be to legitimate services.

⁸ See U.S. International Trade Commission, *U.S. Trade and Investment with Sub-Saharan Africa: Recent Trends and New Developments*, Investigation No. 332-571, March 2020 at 169 (noting that evaluating the “overall IP environment” in Sub-Saharan Africa requires, among other things, looking at factors including “rule of law, judicial independence, control of corruption, and political stability,” and further observing that “legal and political factors can play an important role in the IP environment” in sub-Saharan Africa).

⁹ See, e.g., 19 U.S.C. § 4201(b)(5) (The principal trade negotiating objectives required under the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 include “to further promote adequate and effective protection of intellectual property rights” and “to secure fair, equitable, and nondiscriminatory market access opportunities for United States persons that rely on intellectual property protection.”)

¹⁰ Special 301 is a critical trade tool requiring USTR to identify foreign countries that deny adequate and effective protection of intellectual property rights or deny fair and equitable market access to U.S. persons that rely on intellectual property protection. See 19 U.S.C. § 2242.

includes Sub-Saharan African countries in its scope, and it should, AGOA remains the only avenue for the U.S. creative industries to meaningfully report on intellectual property concerns in this critical region.

The AGOA criteria on intellectual property rights have incentivized developing economies in Sub-Saharan Africa to improve and, just as importantly, to avoid worsening the environment for copyright protection and enforcement for U.S. creative industries' exports. Some examples are set forth below:

- In 2019, South Africa was on the verge of enacting two extremely problematic copyright reform bills that would have moved South Africa even further away from its international treaty obligations and best practices. In response, the U.S. government opened an investigation into whether this legislation would violate the intellectual property rights criteria for eligibility under the Generalized System of Preferences (GSP), which as set forth above, are identical to the AGOA eligibility criteria.¹¹ Subsequently, in 2020, President Ramaphosa referred the bills back to the National Assembly to fix several problems. In 2024, the Parliament passed revised bills that did not address many of those identified problems, and President Ramaphosa sent the revised bills for adjudication by the Constitutional Court, which has not yet ruled. As such, these bills remain problematic. Without the incentive to meet the GSP and AGOA criteria on intellectual property rights for continued access to the U.S. market, it is very likely that the bills would have become law in South Africa. Enactment of the bills would have been disastrous for the U.S. creative industries not just in South Africa but across Sub-Saharan Africa.
- Similarly, since Kenya amended its Copyright Act in 2019, several legislative proposals have been put forth purportedly to address remaining deficiencies with Kenya's copyright framework. The AGOA requirement to provide adequate and effective protection of intellectual property rights provides a significant point of leverage for U.S. government engagement with Kenya on these copyright reform issues. For example, in 2021, a bill was introduced in Kenya's Parliament to repeal online enforcement provisions, including notice and takedown obligations. Due to critical outreach by the U.S. government as well as concerns expressed by the Kenyan Copyright Office and local stakeholders, the troubling proposal was withdrawn.

There are several other ongoing copyright reform efforts in the Sub-Saharan Africa region, and maintaining the intellectual property rights criteria is needed to help ensure these proposals result in adequate and effective protection of copyright. At a minimum, these countries should ensure a legal framework that meets the standards of the WIPO Internet Treaties and provides rights holders with their full panoply of exclusive rights to enable free negotiation and fair and reasonable commercial terms for the exploitation of their works. For example, Nigeria recently enacted a new copyright law that should be revised and implemented consistently with its

¹¹ See USTR Announces GSP Enforcement Actions and Successes for Seven Countries, October 25, 2019, available at <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2019/october/ustr-announces-gsp-enforcement>.

international obligations and evolving global norms.¹² Likewise, the Annexes to the African Continental Free Trade Area (AfCFTA) raise several concerns. It is critical that AGOA beneficiaries that implement the AfCFTA meet international standards and best practices for copyright protection and enforcement.

CONCLUSION

IIPA appreciates this opportunity to provide our views on AGOA modernization. For the copyright industries to expand exports to Sub-Saharan Africa, thereby increasing revenues and jobs in the United States, IIPA urges that the existing AGOA criteria on intellectual property rights be retained in an AGOA modernization. In addition, any reforms related to other AGOA requirements should not in any way reduce or undermine the requirement for beneficiaries to provide adequate and effective copyright protection and enforcement. Likewise, should the United States seek to deepen reciprocal trade relationships with AGOA beneficiaries, ensuring adequate and effective intellectual property rights protection should be a key element of that relationship.

Respectfully submitted,

/Kevin M. Rosenbaum/

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¹² For additional details on the copyright industries' concerns in Nigeria, see IIPA's 2026 Nigeria country report submitted as part of IIPA's 2026 Special 301 filing, available at <https://www.iipa.org/files/uploads/2026/01/NIGERIA-2026-COPYEDITED-1.20.26-1.pdf>.